

**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-218622.4 **DATE:** November 13, 1985  
**MATTER OF:** Developing Countries  
Information Research  
Services--Reconsideration

**DIGEST:**

GAO affirms prior decision that protester was not entitled to proposal preparation costs since request for proposals (RFP) under which offerors competed was defective such that no award could properly be made. In this circumstance, claim must be denied since legal standard for payment of these costs requires that claimant have a substantial chance of receiving a proper award--a standard which the claimant could not meet under this RFP.

Developing Countries Information Research Services (DCIRS) has requested reconsideration of our decision in Agency for International Development, Developing Countries Information Research Services--Reconsideration, B-218622.2, B-218622.3, Sept. 25, 1985, 85-2 C.P.D. ¶ , in which we denied DCIRS' claim for proposal preparation costs under Agency for International Development (AID) request for proposals (RFP) SOD/PDC-024.

DCIRS contended that it was entitled to proposal preparation costs because AID allegedly failed to provide DCIRS with a debriefing in October 1983 on AID's cost evaluation approach under an earlier, similar RFP. Had AID provided this earlier debriefing, DCIRS argued, the company would have been in a "position to overcome the lack of information which resulted in our second experience with AID, the RFP SOD/PDC-024" under which DCIRS did not receive an award. We denied the claim because DCIRS would not have been entitled to award in any event.

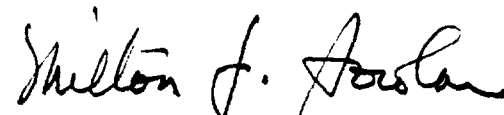
DCIRS takes issue with our denial of its claim, stating that our decision in Aurora Associates, Inc., B-215565, Apr. 26, 1985, 85-1 C.P.D. ¶ 470, our first decision on this procurement, supports its claim. We disagree. The April decision concluded that AID did not use a reasonable evaluation approach and that the RFP was defective.

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The award of bid and proposal preparation costs<sup>1/</sup> is justified only where the protester shows both that the government's conduct towards the protester was arbitrary and capricious and that, if the government had acted properly, the protester would have had a substantial chance of receiving the award. Auto Parts and Supplies, B-216291, Feb. 25, 1985, 85-1 C.P.D. ¶ 230. But the deficiency in RFP SOD/PDC-024 was such that no offeror should have received an award; thus, we recommended that AID recompile the requirements. Consequently, DCIRS did not have a substantial chance of receiving a proper award, and therefore there simply is no basis to compensate the company for its proposal preparation expenses.

We affirm the denial of DCIRS' claim.

*for*   
Comptroller General  
of the United States

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<sup>1/</sup> For cases involving solicitations issued on or after January 15, 1985, the award of bid and proposal preparation costs is governed by our Bid Protest Regulations, 4 C.F.R. Part 21 (1985), which implement 31 U.S.C. §§ 3551-56, as added by the Competition in Contracting Act of 1984, § 2741, Pub. L. 98-369. The solicitation here was issued prior to that date; thus, the Regulations are not applicable.